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EA-87-02



# ENVIRONMENTAL ASSESSMENT BOARD

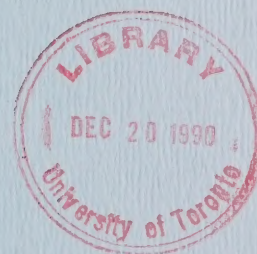
VOLUME: 272

DATE: Wednesday, December 12, 1990

BEFORE:

A. KOVEN CHAIRMAN

E. MARTEL MEMBER



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

-----  
Hearing held at the offices of the Ontario  
Highway Transport Board, Britannica Building,  
151 Bloor Street West, 10th Floor, Toronto,  
Ontario, on Wednesday, December 12th, 1990,  
commencing at 9:00 a.m.

-----  
VOLUME 272

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MR. B. CAMPBELL )	
MS. J. SEABORN )	MINISTRY OF ENVIRONMENT.
MS. B. HARVIE )	
MR. R. TUER, Q.C. )	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. H. TURKSTRA	ENVIRONMENTAL ASSESSMENT
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MR. D. HUNTER )	NISHNAWBE-ASKI NATION
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MR. R. LINDGREN )	
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MR. R. REILLY )	ABORIGINAL ASSOCIATION
MR. P. SANFORD )	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS )	LIMITED and SPRUCE FALLS
MR. D. WOOD )	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF
	LABOUR





APPEARANCES: (Cont'd)

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MR. S.M. MAKUCH	)	
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MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY





APPEARANCES: (Cont'd)

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TOURISM ASSOCIATION





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1627	Copy of two-page letter from Ruth Grier, Minister of Environment, to Dr. Philip Byer, EAAC.	
1628	One-page letter from OLMA to EAB dated December 12, 1990.	





1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Good morning. Please be  
3 seated.

4 Today will be a very short day.  
5 Unfortunately the witness who was to appear today, Dr.  
6 Ross Henderson, is ill and we have cancelled his  
7 evidence for today, and tomorrow we're on stand by but  
8 I don't know what will happen; and, failing that, we  
9 hope that Mr. Henderson can join us some time in the  
10 new year.

11 Mr. Cassidy?

12 MR. CASSIDY: Thank you, Madam Chair.

13 Is it Mr. Pascoe's intention to inform  
14 the other parties of the status of tomorrow at some  
15 point later in the day or tomorrow morning, or are we  
16 expected to appear here, which I'm prepared to do?

17 MADAM CHAIR: Don't come.

18 MR. CASSIDY: Don't come.

19 MADAM CHAIR: Mr. Pascoe will get in  
20 touch with you as soon as possible.

21 MR. CASSIDY: Thank you.

22 MADAM CHAIR: I think that Mr. Lindgren  
23 said he would get in touch with us before noon.

24 MR. CASSIDY: Thank you.

25 Madam Chair, there is one other matter

1       that I request that we deal with today, and that is a  
2       matter involving one of my clients, that is, the  
3       Ontario Lumber Manufacturers Association. Seated  
4       beside me is Mr. Michael Ault, the President of the  
5       Association, and he has requested to have an  
6       opportunity to address you briefly this morning, and I  
7       would ask that he be allowed to do so.

8                   MADAM CHAIR: Certainly, the Board will  
9       hear from Mr. Ault.

10                  MR. AULT: Madam Chair, Mr. Martel, I  
11       want to read a letter that I'm presenting to the Board  
12       this morning.

13                   "The Ontario Lumber Manufacturers  
14       Association has always supported  
15       environmentally sound timber management  
16       practices. Lumbermen are very concerned  
17       with the proper management of the timber  
18       resource as we all derive our livelihood  
19       from the forest.

20                   When we began preparations for the  
21       hearing in 1987 and '88, we did so with  
22       enthusiasm and vigor; we did not realize  
23       then how long the process would take or  
24       how much longer it may take to  
25       completion.



1                   Due to the current recession that  
2                   has hit the lumber industry harder than  
3                   any other sector of the economy, the  
4                   Ontario Lumber Manufacturers Association  
5                   can no longer financially support itself  
6                   at the hearing and, therefore, must  
7                   withdraw.

8                   At the conclusion of the hearing we  
9                   truly hope that all the users of the  
10                  forest will be better for having had it  
11                  and that lumbermen will be able to  
12                  continue to harvest and regenerate our  
13                  greatest natural resource.

14                 As lumbermen we have always  
15                 supported environmentally sound timber  
16                 management practices but we must withdraw  
17                 from the process as we are no longer  
18                 financially able to support ourselves  
19                 being a party.

20                 We continue to support the joint  
21                 OLMA/OFIA position that our counsel has  
22                 presented to you, and it is our sincere  
23                 regret that the process has taken so long  
24                 and that we must withdraw.

25                 Thank you."

1                   MADAM CHAIR: Thank you, Mr. Ault. It is  
2                   the Board's regret to receive this news from you  
3                   concerning your organization's participation. We've  
4                   certainly appreciated the effort your party has made to  
5                   taking part in the hearings, both through the full-time  
6                   representation with the OFIA, and also as Mr. Martel  
7                   and I have travelled across northern Ontario, there  
8                   hasn't been a satellite hearing where we haven't heard  
9                   submissions from sawmill operators and their employees,  
10                  and we have paid close attention to what the members of  
11                  your organization have said and we're very well aware  
12                  of the financial difficulties that your industry finds  
13                  itself in.

14                 It certainly wouldn't be our preference  
15                 that you not continue to participate in the hearing.

16                 We couldn't agree with you more, that the  
17                 process has been too long, and I think all of us accept  
18                 some responsibility for that; none of us knew in the  
19                 beginning that it would take this long, that the costs  
20                 would be so enormous, and I think it has been a very  
21                 expensive experiment, showing us that the process has  
22                 to be reformed, it has to be speeded up, it has to be  
23                 made more affordable. But certainly Mr. Martel and I  
24                 don't like to see your Association being a victim or  
25                 being hurt by the length of this hearing.

1                   We're encouraged to hear that you will  
2           continue some participation with the OFIA. And, is it  
3           your final decision that you will be unable to take  
4           part, or have you given some consideration to  
5           discussing these matters with government with respect  
6           to participation of your Association?

7                   MR. AULT: At our last Board meeting our  
8           Board of Directors, strictly for financial reasons,  
9           instructed us to withdraw simply because we couldn't  
10          afford to participate. We respected their wishes  
11          because they told us what to do, and I'm merely  
12          mentioning what I was told to do.

13                   Now, we are open to any kind of  
14          suggestions that can be made because, as I said, we  
15          support sound timber management and have appreciated  
16          being a participant and our hearts and our minds are in  
17          it but, unfortunately, we have run out of money.

18                   MADAM CHAIR: Well, certainly we wish you  
19          to give the message to your Board of Directors that  
20          this Board has listened very attentatively to your  
21          position on all the issues in the timber management  
22          hearing, and that whether or not you continue to  
23          participate, the evidence is before the Board, there's  
24          a significant amount of evidence that the Board will  
25          consider very seriously in its final decision. So



1 certainly your participation to date, I would think  
2 from, your members' point of view has been very  
3 worthwhile.

4 MR. MARTEL: Well, I would urge you to  
5 talk to the government. I think the statements by the  
6 Premier last week with respect to the difficulty being  
7 encountered by the sawmill industry in particular in  
8 northern Ontario are encouraging, that something might  
9 occur, or people are going to be pushed, it would add  
10 to that, and that you might talk to the Minister of  
11 Natural Resources and the Minister of the Environment  
12 with respect to funding through the funding panel.

13 It's a possibility. I can't say whether  
14 they're going to put more money into the process or  
15 not, but I think you should be urged to look at those  
16 possibilities at least to continue your presence at  
17 this hearing.

18 MR. AULT: We will definitely follow up  
19 on your advice.

20 MADAM CHAIR: Certainly I think that Mr.  
21 Martel and I share a very strong interest in having  
22 parties before this hearing who represent northern  
23 Ontario, and your client is very much a part of that  
24 group.

25 And so I don't know if we can say very

1 much more, we have no control as you know over  
2 providing funding for the participation of groups, but  
3 we have recently referred possible funding matters back  
4 to a hearing panel to consider once again, and you  
5 might discuss whether there's any possibility of that  
6 kind of assistance with your counsel. I have no idea.

7 But certainly we do wish to leave you  
8 with the message that your participation has been  
9 worthwhile and we have found it very valuable to meet  
10 so many of your members and hear their positions.

11 MR. AULT: I very much appreciate hearing  
12 that. I will convey that to our Board of Directors and  
13 follow up on your advice. Thank you.

14 MADAM CHAIR: Thank you very much, Mr.  
15 Ault.

16 There's another matter, Ms. Seaborn?

17 MS. SEABORN: Yes. Thank you, Madam  
18 Chair. If I could address the Board on the issue of  
19 bump-up and designation requests for a couple of  
20 moments.

21 You'll recall, Madam Chair, during the  
22 earlier testimony of the Panel 2 witnesses the Board  
23 asked me a number of questions in relation to bump-up  
24 requests generally. And, Madam Chair, for your  
25 convenience the transcript reference to that

1       undertaking is Volume 248 beginning at page 44616.

2                       Now, Madam Chair, I have for filing today  
3       a letter from the Minister of the Environment that I  
4       would like to distribute to the Board and the parties  
5       and then take a moment to elaborate on the content of  
6       the letter and try and answer some of the Board's  
7       questions that were posed to me during the earlier  
8       testimony of Panel 2.

9                       What I have for filing, Madam Chair, is a  
10      two-page letter to Dr. Philip Byer from Ruth Grier, the  
11      Minister of the Environment. The original of this  
12      letter was signed on December 11th, 1990, which is  
13      yesterday. I had expected that we would be sitting  
14      today and tomorrow and that I would have the original  
15      to make xeroxes of. Today what I will do is undertake  
16      to file with the Board, if we sit tomorrow, tomorrow a  
17      copy of the original and, otherwise, I will provide it  
18      to Mr. Pascoe if we don't sit tomorrow and to the other  
19      parties as well. (handed)

20                      MADAM CHAIR: Thank you, Ms. Seaborn.  
21      Shall we make that an exhibit?

22                      MS. SEABORN: Yes, please.

23                      MADAM CHAIR: That will be Exhibit 1627.

24      ---EXHIBIT NO. 1627: Copy of two-page letter from Ruth  
25                                      Grier, Minister of Environment,  
                                    to Dr. Philip Byer, EAAC.



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MS. SEABORN: 1627, Madam Chair?

MADAM CHAIR: That's right, Ms. Seaborn.

MS. SEABORN: Thank you.

Now you'll see, Madam Chair, in the first paragraph that the Minister refers to a referral letter that went to Dr. Byer that was signed by Mr. Bradley in relation to three designation requests involving timber management plans for Timmins, Magpie and what was referred to in Mr. Bradley's letter as the Sault Ste. Marie Forest Area. And Mr. Bradley's letter of August 31st, 1990, referral letter to EAAC, was made an exhibit and that was Exhibit 1465, it was part of some interrogatory responses.

Now, what the Minister has asked Dr. Byer to do is to carry out a Type A review of these three designation requests that were previously referred by Mr. Bradley.

Now, the Timmins -- the first request is the Timmins Forest Management Unit, and that was the area that the Board will recall that Mr. Tunnicliffe gave evidence in relation to, that was the Marceau Lake Cottagers group.

MADAM CHAIR: And that was in the Magpie FMU?

1 MS. SEABORN: That was in the Timmins FMU  
2 area. In relation to the Magpie FMU that's referred to  
3 in the letter, I don't believe the Board has received  
4 any evidence, at least through witnesses for Forests  
5 for Tomorrow, in relation to that forest management  
6 unit.

7 Now, the third area which is identified  
8 as an area including Ranger Lake, Peshu Lake and  
9 Superior FMUs, was the area that Mr. Nixon gave  
10 evidence in relation to.

11 And you'll recall, Madam Chair, that  
12 during Mr. Nixon's testimony he expressed concern that  
13 Mr. Bradley's referral letter had only identified one  
14 area, being the Sault Ste. Marie area, and Mr. Nixon I  
15 believe made a point in his evidence of saying to the  
16 Board that the area he was concerned with in terms of  
17 the designation request was a wider area. And you'll  
18 note that in this letter the area is expanded upon to  
19 include Ranger Lake, Peshu Lake and Superior Forest  
20 management units.

21 Now, as I said at the outset, what the  
22 Minister has done is asked Dr. Byer and his Committee  
23 to carry out a Type A review.

24 Just for the Board's information, a Type  
25 A review is also known as an open review, and that

1 requires the Environmental Assessment Advisory  
2 Committee to give public notice and it will request  
3 submissions from a wide range of interested groups,  
4 individuals and government agencies. The Committee  
5 then provides a report to the Minister of the  
6 Environment.

7 Now, in addition, in the third paragraph  
8 in the letter there is reference to a second request  
9 that the Minister has asked EAAC to undertake and, that  
10 is, the Minister says in the last line of the third  
11 paragraph:

12 "I would like the Committee to continue  
13 to carry out a Type A review of that  
14 issue."

15 And that issue is how to deal with future  
16 requests for environmental assessments of timber  
17 management plans. And so the Minister of the  
18 Environment has asked EAAC to provide her with some  
19 recommendations in relation to that issue.

20 In the last paragraph --

21 MADAM CHAIR: Excuse me, Ms. Seaborn.

22 MS. SEABORN: Yes.

23 MADAM CHAIR: Does that refer to all  
24 environmental assessments that would take place after  
25 the Board's decision on the Class Environmental



1       Assessment?

2                   MS. SEABORN:  No.  It's my understanding,  
3       Madam Chair, that that specific request is in relation  
4       to requests that would be made during the life of the  
5       exemption order, so--

6                   MADAM CHAIR:  Until a decision is --  
7       okay.

8                   MS. SEABORN:  ---any time from now until  
9       the Board's decision, because once we have a Board  
10      decision, then the status of the exemption order will  
11      change.

12                   The fourth paragraph on the first page  
13      also requests advice from EAAC on possible amendments  
14      to the existing timber management exemption order in  
15      order to bring the terms and conditions attached to the  
16      order up to present standards for exemptions.  And so  
17      that is another area where the Minister has asked for  
18      advice from EAAC.

19                   And on the second page, Madam Chair,  
20      you'll see that the report is requested and  
21      recommendations are requested by March 15th, 1991.

22                   Now, Madam Chair, I think the filing of  
23      this correspondence responds to the first part of the  
24      Board's questions to myself in relation to this issue  
25      of bump-up, and that was to clarify the status of these

1 EAAC referrals that have been referred to by the  
2 witnesses for Forests for Tomorrow.

3 MADAM CHAIR: Excuse me, Ms. Seaborn.  
4 Are these three areas the only ones for which bump-ups  
5 have been requested?

6 MS. SEABORN: No.

7 MADAM CHAIR: No.

8 MS. SEABORN: There are other outstanding  
9 bump-up requests.

10 The second issue, Madam Chair, I believe  
11 that you asked me to respond to and the Board had a  
12 concern about, the extent to which there was a link  
13 between the timber management hearing and the length of  
14 time that it has taken for a decision to be reached in  
15 relation to bump-up and designation requests.

16 I can't, Madam Chair, nor can the  
17 officials at MOE, speculate as to what was in the mind  
18 of the former Minister of the Environment; however, I  
19 think it's fair to say that a number of these requests  
20 do coincide with the commencement of this particular  
21 hearing, and when this hearing began no one anticipated  
22 that we would still be here in late 1990, and I think  
23 it is fair to say that there was a delay in terms of  
24 responding to peoples' requests for designation because  
25 the government wanted to wait and hear what this Board

1 had to say.

2 Given the passage of time, given that  
3 we're still in the hearing, I think that it's quite  
4 clear to my client that we can't at this stage just  
5 wait for the Board's decision, too much time has passed  
6 in relation to individuals and groups who are waiting  
7 for responses.

8 I think that that concern is reflected in  
9 the referral letter in the context of the Minister  
10 asking Dr. Byer and his Committee to provide some  
11 recommendations to the Minister as to how to deal with  
12 future requests for environmental assessments of timber  
13 management plans and, again, a Type A review has been  
14 assigned to that issue.

15 And, Madam Chair, unless the Board has  
16 any further questions for me that I can attempt to  
17 answer today, those are the issues that I wish to  
18 address.

19 MADAM CHAIR: One question and that is:  
20 What is the status of the bump-up request process while  
21 the hearing continues; is the status different than it  
22 will be after the Board's decision is rendered?

23 MS. SEABORN: Right now there's a process  
24 that's governed by the terms of the exemption order.  
25 Depending on what the Board's decision is, yes, that



1 process could change.

2 MADAM CHAIR: Okay. Thank you very much.

3 Mr. Cassidy?

4 MR. CASSIDY: Madam Chair, just one final  
5 housekeeping matter. Perhaps we could file as an  
6 exhibit a copy of the letter which Mr. Ault read to you  
7 this morning, which I believe would be Exhibit 1628,  
8 and that is a letter from Mr. Ault to yourself dated  
9 December 12th, 1990 which, as I indicated, has already  
10 been read into the record. It's a one-page letter,  
11 Madam Chair.

12 MADAM CHAIR: That will be Exhibit 1628,  
13 Mr. Cassidy.

14 ---EXHIBIT NO. 1628: One-page letter from OLMA to EAB  
15 dated December 12, 1990.

16 MR. CASSIDY: And I have provided the  
17 original to Mr. Pascoe and I'll give him a couple of  
18 extra copies as well for the Board's records.

19 MADAM CHAIR: Thank you.

20 MR. CASSIDY: And I have copies for the  
21 other parties.

22 Thank you very much, Madam Chair, for  
23 your time.

24 MADAM CHAIR: Thank you.

25 Thank you very much. And, again, Mr.

1 Martel and I would like to thank Mr. Ault for coming  
2 down from Thunder Bay today to give us his news in  
3 person. We appreciate that very much and we wish you  
4 the best of luck.

5 Thank you very much.

6 Mr. Lindgren?

7 MR. LINDGREN: Madam Chair, I just  
8 visited with Dr. Henderson and I think I will have to  
9 take him to a hospital, so I think it's advisable to  
10 postpone his testimony until the New Year.

11 MADAM CHAIR: Thank you very much, Mr.  
12 Lindgren.

13 MR. LINDGREN: And we certainly regret  
14 the expense and inconvenience that's causing the other  
15 parties, but it's unavoidable in the circumstances.

16 MADAM CHAIR: Thank you very much. And  
17 please tell Dr. Henderson we hope he will recover  
18 quickly.

19 MR. LINDGREN: Thank you.

20 MADAM CHAIR: No hearing tomorrow, we  
21 will recommence on January the 7th.

22 MR. CASSIDY: On behalf of my clients, I  
23 would like to wish the Board a Merry Christmas and a  
24 Happy New Year.

25 MADAM CHAIR: Merry Christmas to everyone

1       and we'll see you in 1991.

2                       Thank you.

3       ---Whereupon the hearing adjourned at 9:30 a.m., to be  
4               reconvened on Monday, January 7th, 1991, commencing  
5               at 10:00 a.m.

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